

Appl. No. 10/055,255
Amendment dated October 19, 2004

REMARKS

Claims 1-38 are pending.

Claims 33-38 are withdrawn from consideration as being directed to a non-elected invention.

Claims 2, 14, and 26 are amended herewith in order to put this application in better condition for appeal.

The drawing rejections addressed by the Examiner have been addressed in the Appeal Brief filed concurrently herewith.

Claim 2 has been amended to clarify that the claimed indicator is an indicator of a particular one of said at least one media receivers as distinct from an indicator of an identity of said customer as claimed in Claim 1.

Claim 14 has been amended to clarify that 'thereto' refers to "said receiving commands controlling provision of an in progress content".

Claim 26 has been amended to include the word "instructions" after "computer executable".

The Examiner has further indicated that "the claims are replete with errors". Applicant notes that in the Office's first action no 112 objections were identified. A mere allusion to the claims replete with errors does not give the Applicant a basis for further amendment or argument.

It is respectfully submitted the claims as now pending comply with 35 U.S.C. 112.

Appl. No. 10/055,255
Amendment dated October 19, 2004

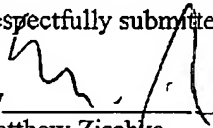
The Examiner has additionally raised a number of points that do not amount to rejections in the office action. The Applicant wish to explicitly address these points to clarify the record. Specifically, the Examiner has construed a number of claim terms. The Applicant does not accept nor refute this claim construction, as such construction does not appear to be relevant. The constructions do not appear to have been applied in formulating a rejection of the claims. Moreover, no allegation has been made that the construed claim terms failed to comply with 35 U.S.C. 112. As such, it is submitted that a person of ordinary skill would readily appreciate the meaning of these terms. Such meaning may or may not agree with constructions put forward by the Examiner.

The Examiner further notes "It is the Examiner's position that claim 27 is not patently distinct from claim 1." Applicant does not agree with the Examiner's assessment. As the Examiner has not raised a requirement for restriction in view of this bald assertion, the Applicant does not need to make additional submissions correcting the Examiner's position.

In view of the foregoing, entry of the presented amendments is requested in order to put this application in better condition for appeal.

No new matter has been added by these amendments.

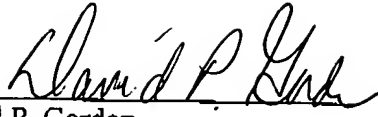
Respectfully submitted,

By 
Matthew Zischka
Registration No. 41,575

SMART & BIGGAR
438 University Avenue
Suite 1500, Box 111
Toronto, Ontario, Canada M5G 2K8

Tel: 416-593-5514 / Fax: 416-591-1690

Appl. No. 10/055,255
Amendment dated October 19, 2004

By 
David P. Gordon
Registration No. 29,996

GORDON & JACOBSON, P.C.
65 Woods End Road
Stamford, CT 06905

Tel: 203-329-1160 / Fax: 203-329-1180

MZ - Nov. 19/04- 92833-1